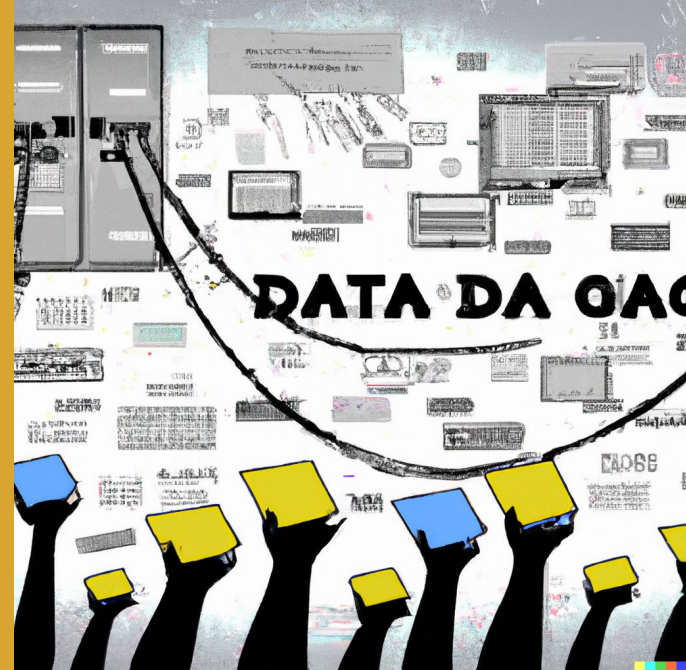




Emerging Data Protection Issues In Competition and Consumer Protection



Ridwan Oloyede
Co-Founder
Tech Hive Advisory



In the beginning...

The three domains have often been discussed as distinct and different and addressed through bespoke law and regulators.

Emerging trends is showing increasing intersection between them - convergence & divergence

The boom in the information technology industry has made the intersections more relevant, apparent, and topical.

They can render each other more effective or limit efficiency.



THE BEGINNING

Objectives

Consumer protection

1. Protect consumers against
 - abuse,
 - exploitation,
 - poor services,
 - goods,
 - unfair practices,
 - false and misleading representation, and
 - to enjoy prompt complaint mechanism, among others.
2. Increase market outcome

Competition

1. Economic efficiency
2. Maximise public interest/consumer welfare
3. Abuse of dominance, collusion, M&A

Data protection

- Protect consumers against the misuse, abuse of their personal information



Fairness

Competition

Data and consumer protection has become an important parameter for assessing competition in addressing emerging forms of market conduct.

- Abuse of dominance by imposing unfair terms on users - Meta v German NCA
- Market conduct and power helping to define the obligation of controllers and processors.
- Tension between data sharing for market efficiency and data protection rules.
- Exploitative practice - Using privacy considerations as justification for practices that can harm smaller rivals
- Zero price market - Google/Android
- Algorithm collusion - Uber
- Economic dependence - Apple
- Merger & Acquisition and collusion
- Foreclosing competitors or acquiring them.



Consumer protection

- Information asymmetry
- Deceptive design
- False and misleading representation
- Unfair and deceptive practices
- Misleading privacy notices.



Apple's App Tracking Transparency feature has arrived — here's what you need to know

Facebook blames Apple after a historically bad quarter, saying iPhone privacy changes will cost it \$10 billion

Apple getting sued over App Store user data collection

Apple sued for "pervasive and unlawful data tracking"

Emerging trends

- Emergence of consumer privacy laws
- Should we expand the scope of consumer welfare?
- Rise of data-polies x Role of big data x Relationship of big data and data protection
- Redefining theory of harm?
- Overlap in the policy areas



Challenges

- Measuring privacy is not so easy because of subjective elements
- Reducing interoperability on privacy grounds
- Separating legitimate and illegitimate use of privacy as a defence to harm competition
- Remedies under one area could potentially affect outcomes in other policy areas
- A single conduct could fall under different policy areas

Opportunities

- Advocacy in ensuring data protection rules do not harm competition
- Emergence of new professionals
- Synergy in enforcement mechanism.
-

Recommendations

- Increased transparency from stakeholders
- Enforcement of law
- Building and deepening capacity of regulators
- Need for collaboration across policy areas
- Regulatory clearing house?





Thanks!

Any **questions** ?